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- 7.I. Ordinance: 2019-10 Ordinance Amending And Supplementing Chapter 680, Vehicles And Traffic, Section 680-35, "Schedule I: "No Parking"

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[2019-10 PH.PDF](#)

- 7.II. Ordinance: 2019-11 Ordinance Amending And Supplementing Chapter 490, Planning And Development Regulations, Relating To Shed Heights.*

Documents:

[2019-11 PH.PDF](#)

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Documents:

[2019-12 PH.PDF](#)

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Documents:

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- 7.VI. Ordinance: 2019-15 Ordinance Amending And Supplementing Chapter 490, Planning And Development Regulations, Relating To Engineering Inspection Fees*

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- 7.VII. Ordinance: 2019-16 Ordinance Amending And Supplementing Chapter 490, Planning And Development Regulations, Relating To Presubmission Reviews And Applications For Development*

Documents:

[2019-16 PH.PDF](#)

- 7.VIII. Ordinance: 2019-17 An Ordinance Establishing An Electric And/Or Natural Gas Aggregation Program

Documents:

[2019-17 PH.PDF](#)

- 7.IX. Ordinance: 2019-18 An Ordinance To Implement The Borough's Third Round Housing Plan Element And Fair Share Plan Consistent With The Terms Of A Settlement Agreement Reached Between The Borough Of Red Bank And The Fair Share Housing Center Regarding Compliance With The Borough's Third Round Affordable Housing Obligations In Accordance With In Re: N.J.A.C. 5:96 And 5:97, 221 N.J. 1 (2015), The New Jersey Fair Housing Act, And Relevant Regulations And Policies Adopted By The New Jersey Council On Affordable Housing.*

Documents:

[2019-18 PH.PDF](#)

- 7.X. Ordinance: 2019-19 An Ordinance To Amend The Borough's Planning And Development Regulations Consistent With The Terms Of A Settlement Agreement Reached Between The Borough Of Red Bank And The Fair Share Housing Center Regarding Compliance With The Borough's Third Round Affordable Housing Obligations In Accordance With In Re: N.J.A.C. 5:96 And 5:97, 221 N.J. 1 (2015), The New Jersey Fair Housing Act, And Relevant Regulations And Policies Adopted By The New Jersey Council On Affordable Housing.*

Documents:

[2019-19 PH.PDF](#)

8. ORDINANCES - FIRST READING

- 8.I. Ordinance: 2019-20 Ordinance Amending And Supplementing Chapter 213, Alarm Systems, Article 213-9: False Alarms To Amend Penalties

Documents:

[2019-20 INTRO.PDF](#)

9. RESOLUTIONS

- 9.I. 19-107 Resolution Opposing The Williams/Nese Raritan Bay Pipeline Qnd Urging The New Jersey Department Of Environmental Protection To Conduct A Public Hearing On The Bayshore And Extend The Public Comment Period

Documents:

[19-107A.PDF](#)

- 9.II. Resolution 19-108: A Resolution Regarding Special Duty Assignments For Police Officers Of The Borough Of Red Bank

Documents:

[19-108.PDF](#)

- 9.III. Resolution 19-109: A Resolution Expressing Support For Legislation Increasing State Funding To The "Shore Protection Fund" From \$25 Million To \$50 Million (S-1614/A-826)

Documents:

[19-109.PDF](#)

- 9.IV. Resolution 19-111: A Resolution Authorizing Approval Of Sidewalk Cafés

Documents:

[19-111.PDF](#)

- 9.V. Resolution 19-112: A Resolution Accepting The Performance Guarantee Posted By Denholtz Associates For The Development Project Located At Block 63, Lots 1.01, 3, 4, 8, 9, 10, & 10.01 And Block 75.05, Lot 16.01

Documents:

[19-112.PDF](#)

- 9.VI. Resolution 19-113: A Resolution Accepting Bids And Awarding A Contract For The White Street/English Plaza Streetscape Improvement Project

Documents:

[19-113.PDF](#)

- 9.VII. Resolution 19-114: Resolution Accepting The Retirement Of Rosa Brown

Documents:

[19-114.PDF](#)

- 9.VIII. Resolution 19-115: A Resolution Appointing Special Law Enforcement Officer Class II (J. McCartney).

Documents:

[19-115.PDF](#)

- 9.IX. Resolution 19-116: A Resolution Appointing Special Law Enforcement Officer Class II (A. Todd)

Documents:

[19-116.PDF](#)

- 9.X. Resolution 19-117: A Resolution Ratifying And Confirming The Appointment Of A Full-Time Police Officer (P. Vescio)

Documents:

[19-117.PDF](#)

- 9.XI. Resolution 19-118: A Resolution Ratifying And Confirming The Appointment Of Part-Time Parking Enforcement Officer (E. Perry)

Documents:

[19-118.PDF](#)

- 9.XII. 19-119 Resolution Extending The Borough's Professional Services Contract With Suplee, Clooney & Company For Financial Accounting Services From May 1, 2019 To June 1, 2019.

Documents:

[19-119.PDF](#)

10. MAYOR & COUNCIL COMMENTS

11. DISCUSSION & ACTION

- 11.I. Request From Christine McSorley And James Bruno To Transfer Membership From The Westside Hose Company To The Liberty Hose Company Of The Red Bank Volunteer Fire Department.

12. PUBLIC COMMENT (GOVERNMENTAL ISSUES, 5 MINUTES LIMIT)

13. EXECUTIVE SESSION

- 13.I. A Resolution Authorizing An Executive Session Of Council
- i. Personnel (Employee Evaluation)
 - ii. Real Estate (Municipal Facilities)
 - iii. Contract Negotiation (Count Basie Field)
 - iv. Litigation (Taylor v. City of Saginaw)

14. ADJOURNMENT

PROCLAMATION

WHEREAS, IN 1872, J. STERLING MORTON PROPOSED TO THE NEBRASKA BOARD OF AGRICULTURE THAT A SPECIAL DAY BE SET ASIDE FOR THE PLANTING OF TREES; AND

WHEREAS, THIS HOLIDAY, CALLED ARBOR DAY, WAS FIRST OBSERVED WITH THE PLANTING OF MORE THAN A MILLION TREES IN NEBRASKA; AND

WHEREAS, 2018 IS THE 147TH ANNIVERSARY OF THE HOLIDAY AND ARBOR DAY IS NOW OBSERVED THROUGHOUT THE NATION AND THE WORLD; AND

WHEREAS, TREES CAN REDUCE THE EROSION OF OUR PRECIOUS TOPSOIL BY WIND AND WATER, CUT HEATING AND COOLING COSTS, MODERATE THE TEMPERATURE, CLEAN THE AIR, PRODUCE LIFE-GIVING OXYGEN, AND PROVIDE HABITAT FOR WILDLIFE; AND

WHEREAS, TREES ARE A RENEWABLE RESOURCE GIVING US PAPER, WOOD FOR OUR HOMES, FUEL FOR OUR FIRES, AND BEAUTIFY OUR COMMUNITY; AND

WHEREAS, TREES, WHEREVER THEY ARE PLANTED, ARE A SOURCE OF JOY AND SPIRITUAL RENEWAL;

NOW, THEREFORE, I, PASQUALE MENNA, MAYOR OF THE BOROUGH OF RED BANK, NEW JERSEY, DO HEREBY PROCLAIM APRIL 26, 2019 AS THE 147TH ANNIVERSARY CELEBRATION OF ARBOR DAY IN THE BOROUGH OF RED BANK, AND I URGE ALL CITIZENS TO CELEBRATE ARBOR DAY AND TO SUPPORT EFFORTS TO PROTECT OUR TREES AND WOODLANDS;

FURTHER, I URGE ALL CITIZENS TO PLANT TREES TO GLADDEN THE HEART AND PROMOTE THE WELL-BEING OF THIS AND FUTURE GENERATIONS.

PASQUALE MENNA
MAYOR

MINUTES
WORKSHOP MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
April 3, 2019
6:30 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Mayor Menna, Council Members Yassin, Triggiano, Ballard, Yngstrom, Zipprich* and Horgan.

ALSO PRESENT: Administrator Shehady, Borough Clerk Borghi, Attorney Cannon*, Attorney Sobel*, Engineer Neumann, Consultant DeRoberts and Department Heads.

*Councilman Zipprich arrived at 6:32 pm

*Attorney Cannon left the meeting at 7:20 pm and Attorney Sobel joined.

SUNSHINE STATEMENT

Mayor Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on December 12, 2018.

ADMINISTRATION

Energy Aggregation Presentation

Administrator Shehady reviewed a program that would offer residents a way to lower their electric bills. He noted it would require the adoption of an ordinance by the Council.

Administrator Shehady introduced Stacia Scaduto who offered more details on the program. She said it would guarantee a lower rate than JCP&L and there would be no fee or penalty to opt out. She confirmed that the Council would need to adopt an ordinance which would lead to a bidding process. She said if the rate was lower than JCP&L, the rate would be offered to residents. She added that if there was no rate lower than JCP&L, the program would not move forward. She said the program was different from other such programs because they offered consumer protections.

Councilwoman Triggiano asked about requiring renewable energy.

Ms. Scaduto said all suppliers must meet state requirements for renewable energy. She said a higher renewable number could be offered as a separate option.

Administrator Shehady reviewed the process once the ordinance was adopted including Board of Public Utilities review. He said once finalized, they would hold the auction. He said there would be public outreach including presentations and mailings. He said the result of the auction would be discussed at a subsequent Workshop meeting. He reiterated that, if the auction did not realize a savings, they would hold off on moving forward.

Mayor Menna said he had had experience with the program in two other municipalities. He said there had been no problems and said it had been favorably received. He said there had been an extensive education process.

Councilwoman Horgan asked how it was funded and how Ms. Scaduto's firm was paid.

Ms. Scaduto said the suppliers paid their fee.

Councilman Ballard confirmed that the program wasn't offered as an opt-in but rather as an opt-out.

Ms. Scaduto said that was the case but confirmed the rate would have to be lower to move forward. She said the opt-out process was very easy with a post card or phone call.

Administrator Shehady noted that those that want more renewable energy may have a higher rate.

Ms. Scaduto said the state allowed companies to charge more for renewable energy.

Councilwoman Triggiano asked if there was a delivery services charge.

Ms. Scaduto said there was nothing that the electricity would still be delivered by JCP&L.

Affordable Housing Settlement

Chris Dochney of CME reviewed the Settlement Agreement and Vacant Land Use report that had been done the previous year. He said the required number of units should be met with the project planned for the former VNA property. He said all new developments would be required to provide Affordable Housing units. He reviewed the requirements that would be placed on Developers. He also reviewed Ordinance changes that would be required to implement the agreement. He said these changes would mean the Borough would be in compliance through 2025. He also reviewed additional legislation that would be required moving forward including a resolution to confirm the Borough's intent to cover any shortage of funds coming into the trust fund.

Mayor Menna said that would be negotiated to limit exposure.

Mr. Dochney said it was a remote possibility but he wanted to make sure the Council was aware.

Councilwoman Triggiano asked about where funds would come from for first time home buyers.

Mayor Menna reviewed the success of previous programs.

Administrator Shehady said the Ordinances/Resolutions would be on the agendas for upcoming meetings. He also noted there would be resolution to authorize additional funding to CME for additional work.

Engineering Report

Administrator Shehady said Attorney Cannon was working on resolutions for easement regarding the English Plaza project.

Attorney Cannon confirmed.

Engineer Neumann offered an update on the East Bergen Place project and said she expected it to be finished around the first of May. She also reviewed the Eastside Park/Mohawk Pond project and said the contractor was working with the Environmental Commission and the Shade Tree Committee. She also reported that the Senior Center Fire Suppression system would require redesign and could not be replaced as is. She said it would need to be publically bid and said a conservative estimate on the work would be ten to twelve weeks.

Councilman Zipprich said users of the Center were concerned. He said the Borough was looking for a place for them to use in the interim.

Administrator Shehady said the project need to be done right and the Borough had to follow procurement laws. He said he had been receiving phone calls and he let them know that the Borough was doing everything in their power to get it resolved.

Engineer Neumann reviewed other open projects with the Council.

There was a discussion on the notices issued to residents regarding the need to make water system improvements before paving projects.

Professional Services Contracts

Administrator Shehady said these resolution were done due to the need to formalize the resolutions with the required elements.

Two River Water Reclamation Authority Update.

Administrator Shehady reviewed the Two River Water Reclamation Authority update.

IT Report

Administrator Shehady reviewed the IT Report including the plans for cameras at the Public Works and Recycling facilities

Councilwoman Horgan asked about the status of cameras being installed in the Parks.

Administrator Shehady said he could not give a date. He said there had been more pressing issues and the past proposals had been very expensive. He said he would get more information.

Shared Services Agreement with Board of Education

Administrator Shehady explained that E-Rate was a way to finance technology equipment. He said the Board of Education wanted to move ahead and needed an agreement in order to have access to a pole at the Library. He said the agreement would authorize them to run fiber at the location.

Grants Report

Administrator Shehady reviewed the report.

CLERK

Borough Clerk Borghi reviewed Ordinances for Public Hearing on the next agenda. She also reported that Sidewalk Café renewals were now due and resolutions to renew would be done as they came in. She also advised that there would be a presentation to the Red Bank Middle School Basketball team at the April 10 Council meeting. She reminded Council members that the Annual Financial Disclosure statements would need to be completed in the month of April. She reviewed several Proclamations that would be on the April 10 agenda.

Attorney Cannon left the meeting.

Attorney Sobel joined the meeting.

LAND USE

Master Plan Review Ordinances

Director Carter said, as part of the Master Plan review, he was recommended several ordinances that would be on the next agenda.

Councilmembers asked about details of the Ordinances.

Mr. Carter reviewed the ordinances and said there were two additional ones that were not related to the Master Plan review but were necessary to bring the Code into compliance with Land Use Law.

Mayor Menna commended Mr. Carter's efforts to streamline services. He also suggested a review of the In House Review fee.

Mr. Carter said the standard fee was \$50 to \$100 for a one to two family house and \$100 for commercial.

Mayor Menna said those fees should be reviewed because of the time spent particularly for commercial or multiple units.

A discussion followed on the rates/fees. Mayor Menna suggested \$150 to \$200.

Administrator Shehady said he and Director Carter would discuss and report back.

Lot Coverage/Impervious Surfaces

The Council discussed lot coverage issues. Councilman Yngstrom said he would like to see an increase in the use of impervious surfaces and would like an ordinance to require it.

Director Carter asked if the goal was to improve water quality.

Councilman Yngstrom said it was and reviewed his concerns.

Mr. Carter reviewed flooding issues versus water quality. He said there were issues with hardscape and said it was possible to address both issues.

Teak Bond Release

Administrator Shehady review a resolution on the next agenda regard the release of a performance bond regarding the property known as Teak.

SENIOR CENTER

Director Reynolds ask if the Council had any question regarding her report. She highlighted activities of the center since it had been relocated. She thanked Westside Hose Company for their assistance in letting them use their facility for meal distribution. She said the Red Bank Volunteer Fire Department had been providing Firewatch Services while they have been back in the building.

PUBLIC WORKS

Director Keen reviewed his report and said the Department had the need for a backup Animal Control Officer. He said there would be no additional cost as they would only be used as a call-in when someone else wasn't available. He said the Department was doing Spring Cleaning in the parks and said the water refill station was operational. He said two more should be installed in the next month to month and a half. He said there had been an increase in summonses in the Parking Utility due to enforcement of ordinances.

Administrator Shehady said they had been focusing on pedestrian and bicycle safety as well as illegal parking. He said the need for turnover was an item listed in the Management Review report. He said they were looking to hire more part time enforcement officers and assign them to sectors.

Director Keen said they were also improving the Parking kiosks.

Administrator Shehady said this had also been in the report and has been asked for by the Community. He said they were looking at a new vendor to evaluate and compare. He reviewed the benefits of smart meter heads and the proposed locations. He said more details would follow and noted that Red Bank was an early adopter of the new technology. He said, in a few years, it would be mainstream.

Director Keen offered an update on the Street Sign replacement project. He also reported that brush pick up was ongoing. He also reported that there was an opening in the water/sewer department and said he would like to fill it.

Administrator Shehady asked him to review the process for residents to request irrigation meters.

Mr. Keen said they would need to get a permit and hire a plumber. He said residents could all Public Works and they would guide them through the process. He also noted that improvements to State Highway 35 were expected to start soon.

Administrator Shehady reviewed the schedule and said it was expected to be complete in mid-June. A discussion followed on Riverside Avenue issues and improvements.

EMERGENCY MANAGEMENT/CODE ENFORCEMENT/FIRE MARSHAL

Fire Marshal Welsh reviewed his report. He also reviewed a proposed ordinance to amend registration and inspection fees and to reduce inspections to once every three years. He said they were getting good compliance with the sign ordinance.

Mayor Menna called for the need to get the word out to landscapers regarding the rules on brush.

Fire Marshal Welsh said there was a need to permit landscapers.

The Council agreed.

Administrator Shehady said they would address that in May or June.

BUILDING

Construction Official Corcione reviewed his report.

Mayor Menna commended him on swiftness of having the fire damage home on Rector Place removed.

PARKS & RECREATION

Director Hoffmann reviewed activities being coordinated by the Department. He said he would have a resolution to hire a Summer Camp Coordinator. He explained the need to fill the position now was because the person would also be coordinating Spring Break Camp at the end of April. He reported that the Red Bank Elks had donated \$2,000 to Red Bank. He said the organization had been a great partner for several events.

POLICE

Chief McConnell said the March report had not yet been completed because the stats were not available. He said there would be a resolution on the upcoming agenda to accept a Distracted Driving Grant. He said the PBA was also recommending a resolution to increase the extra duty rate. He said Red Bank's rate was currently lower than surrounding towns and would still be lower with the proposed \$5 increase. He said they were not recommending an increase for the schools. He said he was also recommending an ordinance to add a No Parking zone on Chestnut Street at the Chestnut and West Street site triangle.

Mayor Menna called for enforcement.

Chief McConnell agreed.

Administrator Shehady noted that they were also adding an additional Parking Officer. He said they were also looking at obstacles such as bollards or planters to deter illegal parking.

Mayor Menna reviewed issues on West Front Street.

Administrator Shehady also reported that an inventory of street lights had been done and said he would like to see them converted to LEDs.

Chief McConnell said there was also a need to update the alarm ordinance with an increase in fees. He said he would also be asking for a resolution to fill to police positions by the end of April.

FIRE DEPARTMENT

Administrator Shehady asked if there were any questions about the Fire Department report.

FINANCE

Administrator Shehady said there would be resolutions on the next meeting for an increase in the temporary budget and to appoint Blau & Blau as Special Tax Appeal Attorneys. He also noted there would be a resolution regarding an OEM Mutual Aid Agreement with the County as part of the Emergency Operation Plan.

Correspondence

None.

Public Comment

Cindy Burnham – asked about the cost for the new parking meter heads.

Administrator Shehady said they would be on a 30 days trial and estimated the cost would be \$300 total. A discussion followed on when the old meter heads were installed.

Ms. Burnham asked if the irrigation meters would also have the \$44 rental fee.

Mr. Shehady said they would not.

Suzanne Viscomi – 25 Cedar Street – asked about the road cleaning process/street sweeper issues and the status of an ordinance. She said the ordinance would also help with stagnant vehicles.

Administrator Shehady said an alternate side of the street ordinance was in draft format. He said they were working on a comprehensive street list and schedule. He said he hoped it would move forward in May. He asked her to email concerns on vehicle issues and they would look into it.

Mayor Menna called for residential parking stickers.

Fred Stone – 16 McLaren Street – express concerns about the census and the likelihood that an undercount could hurt the Borough.

Mayor Menna said it would benefit the Borough to encourage participation. He reviewed suggested means of outreach.

Councilman Zipprich and Councilman Yassin said the Human Relations Advisory Committee had been involved in the last census and would be assisting in the one coming up.

Administrator Shehady said had attend a League of Municipalities meeting with representatives who had reviewed outreach plans and will be sending information to him.

Councilman Zipprich said it would also depend on how the census was crafted.

William Poku – 90 Bank Street – expressed concerns with lead issues at the Bergen Place Improvement project. He suggested it was prudent to have people do an assessment and make repairs now. He suggested the Council should help with replacement costs.

No one else appearing, Councilman Zipprich offered a motion to close the audience portion, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

EXECUTIVE SESSION

18-59 Mayor Menna read a resolution to adjourn to executive session to discuss Litigation (OceanFirst Tax Appeal) and Personnel ((Public Works, Code Enforcement, Finance); no action to be taken.

Councilman Ballard offered a motion to adjourn to Executive Session, seconded by Councilman Yngstrom.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

Councilman Yngstrom offered a motion to adjourn the meeting, seconded by Councilman Yngstrom.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

Respectfully submitted,
Pamela Borghi

DRAFT

**MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL – BOROUGH OF RED BANK
April 10, 2019
6:30 P.M.**

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Mayor Menna and Council Members Hassin, Triggiano, Ballard, Yngstrom, Zipprich, and Horgan.

ALSO PRESENT: Administrator Shehady, Borough Clerk Borghi, Attorney Cannon and Engineer Neumann.

SUNSHINE STATEMENT

Mayor Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on December 12, 2018.

Mayor Menna announced that the appointments for the Redevelopment Agency positions would be tabled until the April 24, 2019 Meeting and Resolution 19-84 would be held until after a discussion to be held in Executive Session.

PROCLAMATIONS, ANNOUNCEMENTS & PRESENTATIONS

Red Bank Middle School Girls' Basketball presentation.

Councilman Yngstrom and Mayor Menna congratulated the members of the team on a successful season and presented each with a Certificate of Recognition.

Certificate of Recognition

Fire Marshal Tom Welsh reviewed the actions of Code Enforcement Inspector Frank Woods when he discovered a gas leak during a routine inspection. He said Mr. Woods efforts helped avert a possible disaster.

Mayor Menna and Councilman Yassin presented Mr. Woods with a Certificate of Commendation to recognize his efforts.

Mr. Woods thanked the Mayor and Council, the Administrator and Mr. Welsh.

Proclamations

Mayor Menna read the following Proclamations

- Donate Life Month - April 2019
- National Library Week - April 7-13, 2019
- Jazz Appreciation Month - April 2019
- Get Yourself Tested Month - April 2019
- Autism Awareness Month - April 2019
- Child Abuse Prevention Month - April 2019

Sustainable Jersey Silver Plaque Presentation

Councilwoman Triggiano reviewed the efforts of the Environmental Commission, its Green Team and Creative Team to achieve Silver Status with Sustainable Jersey. She reviewed initiatives that had earned points toward certification. She noted the Borough has received a \$10,000 grant as a result of the effort which has been used to implement water bottle refill stations. She and other members of the Environmental Commission who were in attendance placed the Silver plate on the plaque.

RiverCenter Budget (Public Hearing/Adoption)

Mayor Menna noted that the RiverCenter budget had been introduced at the March 27, 2019 Council Meeting and that this was the public hearing. He asked if anyone would like to speak.

William Poku—99 Bank Street—asked about business outreach. He noted two funeral homes in town that had been owned by African Americans were gone. He asked if RiverCenter encouraged African American businesses.

RiverCenter Director James Scavone said they approached all businesses without regard for their race, sexual orientation or religion. He also noted that they do not reach out to Funeral Homes.

Councilman Zipprich thanked Mr. Scavone and Treasurer Robin Fitzmaurice for their efforts with the district's budget and the presentation.

19-79 A Resolution Adopting 2019 Budget of the Special Improvement District

Councilman Zipprich offered a motion to confirm the appointments, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

Redevelopment Agency Appointments

Tabled to April 24, 2019.

PUBLIC COMMENT (AGENDA ITEMS ONLY)

Jay Herman—11 Vista Place—noted that he had come to town 30 years ago and had invested in property at a time when the town was dead. He reviewed his family's charitable efforts and the time he had spent as a member of the RiverCenter Board. He said he had been a part of the turning around of the town in the 1980s. He said he felt the reverse tax appeals filed on his properties as well as those of other property owners were without rhyme or reason. He noted that he had never appealed his taxes and said he paid them even though he that that they were higher than they should be, because he felt he was part of a family. He said he felt assaulted. He explained to the public what a reverse tax appeal was and said it could happen to them. He asked the Mayor if he would apply the action to a single family home.

Mayor Menna said no single family homes would be affected.

Samantha Bowers—4130 W. 18th Avenue, Wall Twp.—said her family had owned buildings in town for 40 years and had tried to maintain those properties. She said she was scared of what was happening and expressed concern for their properties and for the business community. She said the businesses were the golden goose for the town and said she thought the action was a big mistake.

William Poku—90 Bank Street—said he thought Red Bank was turning into Georgetown. He noted that he had a pending tax appeal against the Borough and criticized the Tax Assessor.

James Scavone—RiverCenter Director—said he was speaking on Resolution 19-84. He reviewed conversations he had had with the Mayor and Council on ways to make Red Bank more business friendly. He said suing for a reverse tax appeals was not the way to do that. He reviewed his concerns about the action. He said they had been told there was no cost to the filings, however, he warned of the cost of the loss of future business. He noted a similar action in Pennsylvania had been ruled unconstitutional. He also noted that many of the subject properties had never filed a tax appeal. He said if the Borough was successful, the additional costs would be passed on to the tenants and could result in a rise in vacancies. He said he was concerned about how the properties were chosen and questioned the potential for residential properties to be included. He said the residents would also be affected if values of the downtown properties decreased. He called for a town hall meeting on the matter and again said he believed it would have a devastating effect.

Ingeborg Perndorger—6 Robin Road, Rumson—said she owned two properties in town that were not on the list but said she felt devastated by the action and said she felt it was tearing the fabric of the community apart. She asked what criteria was used to choose the properties and what the Assessor's role was in the process.

Stephen Hecht—135 Branch Avenue—said he was concerned about unintended consequences. He said he had been coming to meeting for years to discuss the ineffectiveness of the Tax Assessor. He said this action was frightening to the public. He said he felt the root cause was an incompetent Tax Assessor. He said he understood the position was tenured and reported to the County Tax Assessor. He suggested the Borough go to the County and report he was unable to perform despite his tenure.

Amy Goldsmith—16 Locust Avenue—said she wanted to speak on Ordinance 2019-17 regarding Electricity Aggregation. She said she felt it was a great idea but said they should not just focus on electricity and natural gas. She said they should call for 100 percent renewable energy. She noted other towns had done that and said it should be a policy issue rather than just a financial one. She recommended adding that language to the ordinance.

George Sourlis—2 Bridge Avenue—said he was speaking regarding the reverse tax appeals. He said his was one of the properties targeted. He called it disappointing and noted the competition from business districts in other towns. He said people had choices and asked why businesses would come here. He said the legal fees could be better spent. He said taxes had gone up and services had gone down citing the needs for restaurants to contract with private haulers.

No one else appearing, Mayor Menna asked for a motion to close.

Councilman Ballard offered a motion to close the Public Comment, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the motion was declared approved.

MINUTES & REPORTS

Regular Meeting Minutes of 3/27/2019

Councilwoman Horgan offered a motion to approve the minutes, seconded by Councilwoman Triggiano.

ROLL CALL:

AYES: Yassin, Triggiano, Yngstrom, Zipprich and Horgan.

NAYS: None

ABSTAIN: Ballard

There being five ayes, no nays and one abstention, the motion was declared approved.

ORDINANCES - Public Hearing/Adoption:

None.

ORDINANCES - First Reading:

2019-10 Mayor Menna read, "Ordinance Amending and Supplementing Chapter 680, Vehicles and Traffic, Section 680-35, "Schedule I: "No Parking."

Councilwoman Triggiano offered a motion to approve the introduction of the ordinance, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-11 Mayor Menna read "Ordinance Amending and Supplementing Chapter 490, Planning and Development Regulations, Relating To Shed Heights."

Councilman Yassin offered a motion to approve the introduction of the ordinance, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-12 Mayor Menna read, "Ordinance Amending and Supplementing Chapter 490, Planning And Development Regulations, Relating To Dwelling Apartment Uses Above The Street Level."

Councilman Yassin offered a motion to approve the introduction of the ordinance, seconded by Councilman Yngstrom.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-13 Mayor Menna read, "Ordinance Amending and Supplementing Chapter 490, Planning and Development Regulations, Relating to Permitted Uses in the Professional Office Zone."

Councilman Yassin offered a motion to approve the introduction of the ordinance, seconded by Councilman Yngstrom.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-14 Mayor Menna read, "Ordinance Amending and Supplementing Chapter 490, Planning and Development Regulations, Relating to Restoration of Non-Conforming Structures."

Councilman Yassin offered a motion to approve the introduction of the ordinance, seconded by Councilwoman Triggiano.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-15 Mayor Menna read, "Ordinance Amending and Supplementing Chapter 490, Planning and Development Regulations, Relating to Engineering Inspection Fees."

Councilman Yassin offered a motion to approve the introduction of the ordinance, seconded by Councilman Yngstrom.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-16 Mayor Menna read, "Ordinance Amending and Supplementing Chapter 490, Planning and Development Regulations, Relating to Presubmission Reviews and Applications for Development."

Councilman Yassin offered a motion to approve the introduction of the ordinance, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-17 Mayor Menna read, "An Ordinance Establishing an Electric and/or Natural Gas Aggregation Program."

Mayor Menna asked if any Council members had questions.

Councilmember discussed details of the program and how it would be implemented.

Councilwoman Triggiano offered a motion to approve the introduction of the ordinance, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-18 Mayor Menna read, "An Ordinance to Implement the Borough's Third Round Housing Plan Element and Fair Share Plan Consistent with the Terms of a Settlement Agreement Reached between the Borough of Red Bank and the Fair Share Housing Center Regarding Compliance with the Borough's Third Round Affordable Housing Obligations in Accordance with in re: N.J.A.C. 5:96 And 5:97, 221 N.J. 1 (2015), the New Jersey Fair Housing Act, and Relevant Regulations and Policies Adopted by the New Jersey Council on Affordable Housing."

Councilman Ballard offered a motion to approve the introduction of the ordinance, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

2019-19 Mayor Menna read, "An Ordinance to Amend the Borough's Planning And Development Regulations Consistent with the Terms of a Settlement Agreement Reached between the Borough of Red Bank and the Fair Share Housing Center Regarding Compliance with the Borough's Third Round Affordable Housing Obligations in Accordance with in re: N.J.A.C. 5:96 And 5:97, 221 N.J. 1 (2015), the New Jersey Fair Housing Act, and Relevant Regulations and Policies Adopted by the New Jersey Council on Affordable Housing."

Councilman Ballard offered a motion to approve the introduction of the ordinance, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None.

There being six ayes and one nays, the motion was declared approved.

Mayor Menna announced the Public Hearing would be held 4/24/2019 at 6:30 pm.

RESOLUTIONS

19-80 Mayor Menna read, "A Resolution for Payment of Bills Amounting to \$4,859,819.86.

Councilman Ballard offered a motion to approve the resolution, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-81 Mayor Menna read, "A Resolution Amending the 2019 Temporary Appropriations

Councilman Ballard offered a motion to approve the resolution, seconded by Councilman Yngstrom.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-82 Mayor Menna read, "A Resolution Honoring Robert Colmorgen on his 50th Anniversary in the Red Bank Volunteer Fire Department.

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-83 Mayor Menna read, "A Resolution Requesting Approval of Items of Revenue and Appropriation (Distracted Driving Grant - \$5,500)

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-85 Mayor Menna read, "A Resolution Authorizing the Borough of Red Bank to Participate in Intra-County Mutual Aid and Assistance Agreements with Participating Units in the County of Monmouth.

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-86 Mayor Menna read, "A Resolution Authorizing Approval of Sidewalk Cafés

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-87 Mayor Menna read, "A Resolution Authorizing the Borough Planner to Perform Additional Affordable Housing Planning Services to Assist the Borough in the Court-mandated Compliance Process

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-88 Mayor Menna read, " A Resolution Ratifying and Confirming the Appointment of a Temporary/Seasonal Assistant Camp Supervisor.

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-89 Mayor Menna read, "A Resolution Authorizing Release of the Performance Guarantee Posted by Teak Ventures, LLC for 64 Monmouth Street, Block 31, Lots 32 & 33.

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-90 Mayor Menna read, "A Resolution Authorizing the Settlement of Tax Appeal Filed by the Borough in the Tax Court of New Jersey Entitled Borough of Red Bank v. Oceanfirst Bank, Docket No. 007770-2018 Regarding the Property Located at Block 7, Lot 17.02 on the Borough Tax Maps.

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-91 Mayor Menna read, "A Resolution to Appoint a Chief Financial Officer

Councilman Ballard reviewed the process to choose a new CFO and announced the position would be filled by Peter O'Reilly.

Councilman Ballard offered a motion to approve the resolution, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-92 Mayor Menna read, " A Resolution Authorizing Contract Modification #1 to a Professional Services Contract with T&M Associates for Engineering Services to Include Roadway Reconstruction for Pearl Street Improvements

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-93 Mayor Menna read, "A Resolution to Authorize a Professional Services Contract with Gregory Cannon Individually and with Sobel Han LLP for Municipal Attorney Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-94 Mayor Menna read, "A Resolution to Authorize a Professional Services Contract with Daniel J. O'Hern Individually and with Byrnes, O'Hern & Heugle, LLC for Special Counsel for Tax Appeals

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-95 Mayor Menna read, "A Resolution to Authorize a Professional Services Contract with Martin Allen Individually and Difrancesco, Bateman, Coley, Yospin, Kunzman, Davis, Lehrer & Flaum, P.C. for Special Counsel for Tax Appeals

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-96 Mayor Menna read, "A Resolution to Authorize a Professional Services Contract with Gene J. Anthony, Esq. for Rent Leveling Board Attorney Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-97 Mayor Menna read, "A Resolution to Authorize a Professional Services Contract with Gregory R. Valesi Individually and with CME Associates for Municipal Engineer Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-98 Mayor Menna read, "A Resolution to Authorize a Professional Services Contract with William G. McGuinn Individually and with Hoagland, Longo, Moran, Dunst And Doukas, LLP for Municipal Prosecutor Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-99 Mayor Menna read, "A Resolution to Authorize a Professional Services Contract with Kevin P. Wigenton, Esq. for Municipal Public Defender Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-100 Mayor Menna read, “A Resolution to Authorize a Professional Services Contract with Charles J. Fallon Individually and with Fallon & Company LLP for Municipal Auditor Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-101 Mayor Menna read, “A Resolution to Authorize a Professional Services Contract with Ronald D. Cucchiaro Individually and with Weiner Law Group LLP for Labor Counsel Attorney Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-102 Mayor Menna read, “A Resolution to Authorize a Professional Services Contract with Lisa A. Gorab Individually and with Wilentz, Goldman & Spitzer, P.A. for Municipal Bond Counsel Attorney Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-103 Mayor Menna read, “A Resolution to Authorize a Professional Services Contract with Leslie G. London Individually and with Mcmanimon Scotland Baumann, LLC for Special Counsel for Redevelopment Services

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

19-104 Mayor Menna read, “A Resolution Authorizing Person-to-person Transfer Of Plenary Retail Distribution License No. 1340-33-033-010 (Red Enterprises to Abracadabra)

Councilwoman Triggiano offered a motion to approve the resolution, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

MAYOR & COUNCIL COMMENTS

Councilman Yassin thanked the Mayor and Council for holding the vote on 19-84 for more discussing noting that he had concerns that had not been addressed. He said he appreciated them giving it another look.

Councilman Yngstrom reported that the Spring Egg Hunt would be the following Saturday at 2pm at County Basie Park with a rain date of April 20th. He also reported that a parade had been added to the Memorial Day program which would begin at noon. He said Westside Jazz Concerts would begin Friday, May 31, at 6:30 pm.

Councilwoman Triggiano said the Environmental Commission was working with the Library on an Earth Day display. She also reported that TCNJ Student has helped out with the Community Garden and said they were looking for volunteers to help with an April 14 clean up. She congratulated Environmental Commission Creative Team Member Kate Okeson on recently being honored for Outstanding Achievement in “Educator in Visual Arts.” She said the Environmental would also be participating in a town wide clean up on April 27 and would be hosting an Earth Day Expo at Borough Hall on Sunday, April 28.

Councilman Ballard reported that the Finance Committee was continuing to work on the budget and were working with the interim CFO and the Administrator. He said he expected it to be introduced in early May. He

also reported that the Borough had received a \$100,000 NJ DOT Safe Streets to Transit Grant and noted the Borough was the only town in Monmouth County and only one of five in the state to receive the grant. He commended the work being done by grants consultants Millennium Strategies for their efforts.

Councilman Zipprich reported that RiverCenter had reviewed the final plans for the White Street/English Plaza contract and said it was going out to bid. He thanked the members of the business community for speaking out and for challenging the Council to deliberate on this types of matters. He again thanked Jim Scavone and Robin Fitzmaurice for their presentation and their ability to maintain a flat budget. He said he also wanted to clarify that the “pillow tax” charge by the hotels did not fund the Visitor’s Center but went directly to the Borough.

Councilwoman Horgan said she had no additional report and commended Educator Kate Okeson for her much deserved award.

DISCUSSION & ACTION

No items.

PUBLIC COMMENT (Governmental Issues, 5 Minute Limit)

Amy Goldsmith—16 Locust Avenue—said she was the New Jersey State Director of Clean Water Action. She noted Little Silver had recently passed a resolution banning plastic bags, Styrofoam and straws and suggested Red Bank should do the same. She named several other municipalities that had enacted similar legislation. She reviewed step people could take to help with the effort. She said she would like to see the ordinances for events call for them to be zero waste and offered her organization to find ways to help.

Mayor Menna reviewed a previous attempt to enact a plastic bag ban and suggested it was time to try it again.

Councilwoman Triggiano thanked Ms. Goldsmith for her presentation and said she had confirmed much of the information provided. She agreed that the Borough should work hand in hand with the business community.

Mayor Menna suggested they should start small with their homes or offices and Ms. Goldsmith’s instinct would be helpful.

Dan Riordan—53 Elm Place—asked about Executive Session resolution and minutes. He criticized the format and said it should include more information.

No one else appearing, Councilman Yngstrom made a motion to close the public portion, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the motion was declared approved.

EXECUTIVE SESSION

18-105 Mayor Menna read a resolution to adjourn to executive session to discuss Litigation (Reverse Tax Appeals) and Personnel (Parking director); Possible action to be taken.

Councilman Yngstrom offered a motion to adjourn to Executive Session, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

RESUME REGULAR BUSINESS

Councilman Zipprich made a motion to resume Regular Business, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

Attorney Cannon said the Council would not be taking action on Resolution 19-84.

Attorney Cannon read, “Resolution Instructing The Borough’s Special Tax Appeal Counsel, Blau & Blau, To Voluntarily Dismiss All 2019 Affirmative Tax Appeals.”

Councilman Yassin offered a motion to approve the resolution, seconded by Councilman Yngstrom..

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

Attorney Cannon said the Council had also discussed a Personnel Matter regarding the position of Parking Director but no action was being taken.

Mayor Menna asked if there was any additional Public Comment.

Ben Forest – 16 Locust Avenue – asked for clarification on the resolution adopted.

Mayor Menna explained that the Council had voted to dismiss the 2019 Tax Appeals.

Mr. Forest asked if the Council would consider them again in the future.

Mayor Menna said he could not say that as there could be a different Council in the future.

Jay Herman – 11 Vista Place – thanked the Council for listening and thanked them for the decision.

Freddie Boynton – PO Box 2074—said there were three Borough-owned trees adjacent to the AME Zion Church that were resting on the roof of the building. He said he had reported the issue to Public Works and had been told it would be taken care of. He said he was concerned that the trees would cause damage to the roof. He asked the Mayor to have someone look at the situation and have it taken care of.

Mayor Menna said he would get information from the Director of DPW and look into the matter.

Mr. Boynton also criticized the time limitation for public speakers. He said he thought the Administrator noting that time was up was disrespectful.

Mayor Menna said the Administrator was not being disrespectful and was just applying the policy.

ADJOURNMENT

Councilman Zipprich offered a motion to adjourn the meeting, seconded by Councilman Yassin.

ROLL CALL:

AYES: Yassin, Triggiano, Ballard, Yngstrom, Zipprich and Horgan.

NAYS: None

There being six ayes and no nays, the resolution was declared approved.

Respectfully submitted,
Pamela Borghi

ORDINANCE NO. 2019-10

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 680, "VEHICLES AND
TRAFFIC," SECTION 680-35, "SCHEDULE I: "NO PARKING"**

BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 680 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, "Vehicles and Traffic," Section 680-35 Schedule I, "No Parking," is hereby amended and supplemented as follows:

SECTION ONE: Schedule I, "No Parking," is amended and supplemented as follows:
(strikeouts denote deletions, underlined text denotes additions):

SCHEDULE I: No Parking

In accordance with the provisions of Subsection 680-3C, no person shall park a vehicle at any time upon any of the following described streets or parts of streets.

| Name of Street | Side | Location |
|-----------------------|-------------|---|
| Chestnut Street | North | Starting at the northeast corner of West Street and extending in a easterly direction for 110 feet. |

[All other provisions remain unchanged]

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduced: April 10, 2019
Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-11

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER 490, PLANNING AND DEVELOPMENT
REGULATIONS, RELATING TO SHED HEIGHTS**

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 490 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County is hereby amended and supplemented as follows:

SECTION 1. §490-35 Planning and Development Regulations, Accessory Structures Section A as follows:

- A. An accessory structure attached to a principal building shall comply in all respects with the yard requirements of this chapter for the principal structure. Detached accessory structures shall be located in other than a front yard and, if located in a side or rear yard area shall be set back at least eight feet from all lot line if not otherwise provided in the zone district regulations., except that storage sheds contain less than 100 square feet of floor area and under 10' in height may not be located not less than three feet from any side or rear lot line.

SECTION 2: A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 3: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 4: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019
Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-12

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER 490, PLANNING AND DEVELOPMENT REGULATIONS,
RELATING TO DWELLING APARTMENT USES ABOVE THE STREET LEVEL**

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 490 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County is hereby amended and supplemented as follows:

SECTION 1. Amend as follows:

§490-144 Planning and Development Regulations, Central Commercial District-1

A. Permitted Uses

- (7) Dwelling apartment uses on floors above the street level floor, with the following conditions:
- a. ~~That adequate parking is provided for the site when any new gross floor area is proposed and the~~ Maximum density does not exceed 25 dwelling units per acre.
 - b. For structures in existence prior to September 2009, maximum 25 dwelling units per acre density, except that the density can be increased to allow no more than four size conforming dwelling units.
 - c. All dwelling units shall be a least ~~1,000~~ 600 square feet of habitable area and no more than two bedrooms per unit.
 - d. Ground floor commercial uses shall constitute a minimum 50% of the floor area of the floor area of any floor above with the largest floor area.

§490-145 Planning and Development Regulations, Central Commercial District-2.

A. Permitted Uses

- (7) Dwelling apartment uses on floors above the street level floor, with the following conditions:
- e. ~~That adequate parking is provided for the site when any new gross floor area is proposed and the~~ Maximum density does not exceed 25 dwelling units per acre.
 - f. For structures in existence prior to September 2009, maximum 25 dwelling units per acre density, except that the density can be increased to allow no more than four size conforming dwelling units.
 - g. All dwelling units shall be a least ~~1,000~~ 600 square feet of habitable area and no more than two bedrooms per unit.
 - h. Ground floor commercial uses shall constitute a minimum 50% of the floor area of the floor area of any floor above with the largest floor area.

SECTION 2: A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 3: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 4: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019
Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-13

ORDINANCE OF THE BOROUGH OF RED BANK,
COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING
CHAPTER 490, PLANNING AND DEVELOPMENT REGULATIONS,
RELATING TO PERMITTED USES IN THE PROFESSIONAL OFFICE ZONE

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 490 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County is hereby amended and supplemented as follows:

SECTION 1. §490-147 Planning and Development Regulations, Profession Office Zone District Amend as follows:

A. Permitted Uses

- (1) Detached single-family dwellings.
- (2) Home professional offices.
- (3) The following shall be considered permitted uses, provided that the physical arrangement of the proposed use not result in alteration of any existing buildings or property nor require any new construction which is not residential in character and appearance as provided in Section 490-47 of this chapter.
 - (a) At any location in the district:
 - (i) Professional offices and business offices.
 - (ii) Professional office and business offices with apartments providing residential density of no greater than ~~four~~ six units per acre with a minimum of 600 square feet of habitable floor area for each apartment, except that first-floor apartments are a minimum of 1,000 square feet.

E. Area, yard and structure requirements: (Note: Area, yard and structure requirements for detached single-family dwellings shall conform to the RB Zone.)

- (1) Minimum Lot area:
 - (a) For home professional offices, business offices and professional offices ~~except medical and dental with three or more practitioners~~: 7,500 square feet.
 - (b) For professional and business offices with apartments: 11,000 square feet.
 - (c) For all other uses: 30,000 square feet.
- (2) Minimum lot frontage:
 - (a) For home professional offices, business offices and professional offices with apartments ~~and professional offices except medical and dental with three or more practitioners~~: 75 feet.
 - (b) For all other uses: 120 feet
- (3) Minimum front setback:
 - (a) For home professional offices, business offices and business and professional offices with apartments ~~and professional offices except medical and dental with three or more practitioners~~: 30 feet.
- (4) Minimum rear yard setback:
- (5) Minimum side yard setback:
 - (a) For home professional offices, business offices, business and professional offices with apartments ~~and professional offices except medical and dental with three or more practitioners~~:
- (6) Maximum height:
 - (a) For home professional offices, business offices and business and professional offices with apartments ~~and professional offices except medical and dental with three or more practitioners~~: 35 feet and 2 ½ stories.
- (7) Delete section.
- (8) Maximum lot coverage of principal and accessory structures:

- (a) For home professional offices, business offices, business and professional offices with apartments and professional offices ~~except medical and dental with three or more practitioners~~: 35%
- (b) For all other uses: 25%
- (9) Minimum unoccupied open space:
 - (a) For home professional offices, business offices, business and professional offices with apartments and professional offices ~~except medical and dental with three or more practitioners~~: 20%
 - (b) For all other uses: 25%.

SECTION 2: A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 3: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 4: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019
 Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-14

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER 490, PLANNING AND DEVELOPMENT REGULATIONS,
RELATING TO RESTORATION OF NON-CONFORMING STRUCTURES**

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 490 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County is hereby amended and supplemented as follows:

SECTION 1. §490-32 Planning and Development Regulations, Yard Areas add a section D as follows:

- D. Front yard setbacks for new one and two family dwellings in the RB, RD, R-B1 & R-B2 zone districts can be reduced to the average front yard setbacks of the adjoining two properties on either side or on the one side if a corner lot, but shall not be less than 10’.

SECTION 2: A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 3: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 4: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019
Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-15

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER 490, PLANNING AND
DEVELOPMENT REGULATIONS, RELATING TO ENGINEERING INSPECTION FEES**

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 490 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County is hereby amended and supplemented as follows:

SECTION 1. §490-10 Fees and Escrows Section B Nonrefundable Inspection Fees be deleted in its entirety and replaced as follows:

B. Inspection Fees.

- (1) Inspection fees as per procedures prescribed by the Department of Planning and Zoning consistent with the Municipal Land Use Law (40:55D-53).
- (2) Required Inspection fees shall be paid prior to the issuance of a Development Permit.

SECTION 2: A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 3: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 4: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019

Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-16

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING CHAPTER 490, PLANNING AND DEVELOPMENT REGULATIONS,
RELATING TO PRESUBMISSION REVIEWS AND APPLICATIONS FOR DEVELOPMENT**

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 490 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County is hereby amended and supplemented as follows:

SECTION 1. §490-59 Pre-submission Review be deleted in its entirety and replaced as follows:

§490-59. Informal Review of developer’s concept plan.

At the request of the developer, the planning board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The fees for such an informal review shall be a credit toward fees for review of the application for development. The developer shall not be bound by any concept plan or which review is requested, and the planning board shall not be bound by any such review.

SECTION 2. §490-60 Applications for development be deleted in its entirety and replaced as follows:

§490-60. Applications for development.

Development applications shall be as per procedures and on forms prescribed by the Department of Planning and Zoning consistent with this chapter and the Municipal Land Use Law.

SECTION 3: A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey Statutes.

SECTION 4: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 5: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 6: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019
Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-17

**AN ORDINANCE OF BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY, ESTABLISHING AN ELECTRIC
AND/OR NATURAL GAS AGGREGATION PROGRAM**

WHEREAS, the State of New Jersey has been engaged in a process to establish a competitive market place through deregulation and restructuring the electric utility market and/or natural gas market; and

WHEREAS, the establishment of a government aggregator and an energy aggregation program to purchase electric generation service and/or natural gas pursuant to N.J.S.A. 48:3-93.1 *et seq.* and N.J.A.C. 14:4-6.1 *et seq.* will increase competition for the provision of electric power and/or natural gas to residential and non-residential users, thereby increasing the likelihood of lower electric rates and/or natural gas rates for these users without causing any interruption in service; and

WHEREAS, under the aggregation process the residential and non-residential ratepayers may likely receive a direct reduction in their electric and/or gas bills; and

WHEREAS, the realization of energy cost savings is in the interests of the health, safety and welfare of the residents and non-residents of Red Bank Borough (“the Borough”); and

WHEREAS, the Borough Council hereby finds that it is in the best interests of residential and non-residential ratepayers for the Borough to create the opportunity for them to enter into an aggregation agreement in order to seek substantial savings on electric and/or natural gas rates; and

NOW, THEREFORE BE IT ORDAINED, by the Council of Red Bank Borough in the County of Monmouth and the State of New Jersey, duly assembled in public session, as follows:

1. The Borough publicly declares its intent to become an aggregator of electric power on behalf of its residential users of electricity pursuant to the Government Energy Act of 2003, N.J.S.A. 48:3-91.3 to -98, and implementing regulations.
2. The Borough will utilize approved vendors Commercial Utility Consultants, Inc. and Concord Engineering Group dba Concord Energy Services pursuant to the NJ E-PROCUREMENT Pilot program (P.L. 2001, c.30) under the NJ Department of Community Affairs. The Reverse Energy auction will seek bids from licensed and appropriate third party suppliers. If such winning bid is selected and agreement executed, individual residential consumers would retain the option not to participate and to choose any alternatives they desire.
3. The Mayor and Borough Clerk are hereby authorized and directed to execute any documents necessary to carry out the purpose of the Ordinance.
4. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
5. If any portion of this ordinance shall be deemed invalid by any court of competent jurisdiction, the remainder shall survive in full force and effect.
6. This ordinance shall be effective immediately upon adoption and publication in accordance with law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019
Public Hearing/Adoption: April 24, 2019

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

ORDINANCE 2019-18

AN ORDINANCE OF THE BOROUGH OF RED BANK TO IMPLEMENT THE BOROUGH'S THIRD ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A SETTLEMENT AGREEMENT REACHED BETWEEN THE BOROUGH OF RED BANK AND THE FAIR SHARE HOUSING CENTER REGARDING COMPLIANCE WITH THE BOROUGH'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS IN ACCORDANCE WITH IN RE: N.J.A.C. 5:96 AND 5:97, 221 N.J. 1 (2015), THE NEW JERSEY FAIR HOUSING ACT, AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Red Bank that Chapter 205, Affordable Housing, of the Revised General Ordinances is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

SECTION 1. §205 Article 1, Fair Share Obligation, is hereby amended as follows:

Delete the following:

- 205-1
- 205-2
- 205-3
- 205-4
- 205-5
- 205-6
- 205-7
- 205-8
- 205-9

Add the following:

§205-1 Affordable Housing Obligation

- A. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- B. The Borough of Red Bank Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the governing body. The Fair Share Plan describes how Red Bank Borough shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Borough and Fair Share Housing Center (FSHC).
- C. This Ordinance implements the Borough's Fair Share Plan, addresses the requirements of the Court and the terms of the settlement agreement, and also implements a Borough wide requirement that all new multi-family residential development of five (5) or more units shall have a mandatory affordable housing set aside for low- and moderate-income units, subject to certain enumerated conditions.
- D. The Borough of Red Bank shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:
 - (1) Beginning on the one year anniversary of the order granting compliance and repose, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
 - (2) Beginning on the one year anniversary of the order granting compliance and repose, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website

with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

- (3) By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
- (4) By March 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

§205-2 Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or structure that provides for-sale or rental dwelling units for low & moderate income households within a residential use, structure, supportive or special needs dwelling, or residential component of a mixed-use development in accordance with the requirements of the Borough of Red Bank’s affordable housing ordinances and Housing Element & Fair Share Plan.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of

Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the New Jersey Council on Affordable Housing established under the Fair Housing Act of 1985.

“Construction” means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the “State Uniform Construction Code Act,” P.L. 1975, c.217 (C.52:27D-119 et seq.).

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Development fee” means money paid for an individual, person, partnership, association, company or corporation for the improvement of a property as permitted in COAH rules and regulations pursuant to N.J.A.C. 5:93-8, Development Fees.

“Equalized assessed value” means the assessed value of a property divided by the current State equalization ratio for the Borough, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

“Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.”

“Inclusionary development” means a development containing both affordable units and market rate units. Inclusionary developments that has five or more units must have a minimum twenty percent set aside of affordable units if it is for sale and a minimum fifteen percent set aside for rentals. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Judgment of compliance” means a determination issued by the Superior Court approving the Borough’s affordable housing plan to satisfy its fair share obligation.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by the Department.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Mixed-Use Development” means a structure or building that encompasses two or more different land uses, which shall be a retail or commercial component and a residential component, whereby any commercial use must be on the ground floor of said building or structure and the upper levels of the structure shall be the residential component and shall provide low and moderate income units, for-sale or rental, in accordance with the requirements of the Borough of Red Bank’s affordable housing ordinances and Housing Element & Fair Share Plan.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department’s adopted Regional Income Limits published annually by the Department.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Sub-code, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

§205-3 Affordable Housing Mechanisms

The Borough of Red Bank will use the following mechanisms to satisfy its affordable housing obligations:

A. Percentage of Mandatory Set Asides for All Future Residential Developments.

- (1) If the Borough permits the construction of multi-family or single-family attached residential development that is “approvable” and “developable,” as defined at N.J.A.C. 5:93-1.3, at a gross residential density of 6 units to the acre or more, and which consists of ten (10) or more new residential units, the Borough shall require that an appropriate percentage of the residential units be set aside for low and moderate income households.
- (2) This requirement shall apply beginning with the effective date of this ordinance to any multi-family or single-family attached residential development, including the residential portion of a mixed-use development, which consists of ten (10) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough’s Planning or Zoning Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.
- (3) An affordable set-aside shall be required in accordance with the following:

| <u>Total Number of Units</u> | <u>Minimum Percentage of Affordable Units</u> |
|------------------------------|---|
| <u>10 and under</u> | <u>None</u> |

| | |
|---------------------|--------------|
| <u>11-25</u> | <u>10%</u> |
| <u>26-150</u> | <u>15%</u> |
| <u>151-215</u> | <u>17.5%</u> |
| <u>216 and over</u> | <u>20%</u> |

- (4) Developers of 10 units and under will be required to pay the Borough's development fee. Developers of 11 units and above will be required to provide at least 70% of the units required on site and will have the option to satisfy the remaining obligation with either:
- [1] off-site affordable units; or
 - [2] a Payment In Lieu of such units in accordance with N.J.A.C. 5:93-8.10(c) and N.J.A.C. 5:97-6.4(c)3, provided that the Borough will only accept a Payment in Lieu if at the time of application the applicant can demonstrate that the Payment in Lieu will create an equivalent number of new construction or gut rehabilitation affordable units to those that would have been provided on site, which off-site or payment in lieu units, when combined with the on-site units, shall be consistent with the bedroom distribution, very-low-/low-/moderate-income split and all other terms of the Settlement Agreement.
 - [3] Off-site affordable units or units to be produced through a Payment in Lieu shall be subject to the phasing requirements in §205-4(B).
- (5) This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- (6) This requirement does not apply to any sites or specific zones otherwise identified in the Settlement Agreement or Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein, though all other provisions of this ordinance shall be applicable to those sites unless otherwise specified.
- (7) A set-aside shall not apply to developments containing ten (10) or fewer dwelling units.
- (8) All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is ten (10) or more.

B. Rehabilitation Program.

- (1) The Borough of Red Bank and Fair Share Housing Center have agreed upon a rehabilitation program of one hundred and twenty-nine (129) units. The Borough will create and administer both a rental and owner occupied rehabilitation program to satisfy its 129 unit present need obligation. A Spending Plan will be prepared and adopted by the Borough that shall outline the schedule and expenditures through 2025 to realize 129 rehabilitated units. The Spending Plan will be funded through the Borough's existing Developer Fee Ordinance and payments in lieu where appropriate. The Administrative Agent shall be responsible for submitting the rehabilitation program manuals and documenting each rehabilitation application and documents thoroughly. Any renovation of deficient housing units to be occupied by low- and moderate-income households will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- (2) All rehabilitated rental or owner-occupied units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
- (3) The Borough of Red Bank shall dedicate an average of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
- (4) The Borough of Red Bank shall designate, subject to the approval of the Court, one Administrative Agent to administer the rehabilitation program in accordance with N.J.A.C. 5:91 and N.J.A.C. 5:93. The Administrative Agent shall provide a rehabilitation manual for both rental and owner occupant rehabilitations. These manuals when created will be reviewed by the governing body and adopted by resolution subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office of the Administrative Agent.
- (5) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:93-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - [1] If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.

- [2] If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
- [3] Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9.
- [4] Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

C. First-Time Homebuyers Program

- (1) The Borough will develop a First-Time Homebuyer Program to provide for an opportunity for homeownership in the Borough to at least fifty (50) low- and moderate-income households by 2025. The program will be funded with development fees collected by the Borough, and the properties involved will be deed restricted for a thirty (30) year period (control period) to remain affordable to low or moderate income households consistent with the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-16.1 et seq. The maximum loan amount to be dedicated to each unit shall be \$10,000.

D. Alternative Living Arrangements

- (1) The administration of an alternative living arrangement shall be in compliance with N.J.A.G. 5:93-5.8 and UHAC, with the following exceptions:
 - [1] Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - [2] Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- (2) With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- (3) The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§205-4 New Construction

The following general guidelines apply to all newly constructed developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- A. Affordable Housing Plan. The applicant for approval of an 11 unit or more residential or development shall present the planned method of affordable housing compliance based upon the full build-out of the property for residential and/or nonresidential development. The applicant shall demonstrate compliance by completing an Affordable Housing Plan Form which shall be submitted at the time of application filing.
- B. Phasing. Inclusionary developments shall be subject to the following schedule:

| <u>Minimum Percentage of Low- and Moderate-Income Units Completed</u> | <u>Maximum Percentage of Market-Rate Units Completed</u> |
|---|--|
| <u>0</u> | <u>25</u> |
| <u>10</u> | <u>25 + 1 Unit</u> |
| <u>50</u> | <u>50</u> |
| <u>75</u> | <u>75</u> |
| <u>100</u> | <u>90</u> |

- C. Fractional Units. If the required set-aside of the total number of units in a development results in a fraction or decimal, the developer shall be required to round up and provide an additional affordable unit on site if the fraction is 0.5 or greater. If the fraction is less than 0.5, the developer shall be required to provide the affordable housing development fee for the fractional units.

Examples:

A 15-unit development requiring an affordable housing set-aside of 1.5 units is proposed. The development is required to provide two (2) affordable units.

A 12-unit development requiring an affordable housing set-aside of 1.2 units is proposed. The developer is required to provide one (1) affordable unit, and pay the affordable housing development fee for two (2) units.

- D. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- E. Off-site construction. The standards for constructing affordable units off-site, shall be in accordance with the Borough's recommendations, provided that at least the same number of affordable units are provided, at least half of the affordable units are available to families, and not more than 25% are age-restricted, and the affordable units provided are otherwise consistent with the terms of the Settlement Agreement.
- F. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- G. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
- (1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
 - (2) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units, including that 13% shall be very low-income within each bedroom distribution. If there is only one affordable unit it must be a low income unit.
 - (3) Thirteen percent (13%) of all affordable units approved or constructed since July 17, 2008 in the Borough shall be designated as very-low income households at 30% of the median income, with at least fifty percent (50%) of all very-low income units being available to families. If an inclusionary development proposes less than 10 total units, a payment in lieu of the cost of subsidizing a very low income unit shall be deposited into the Borough's Affordable Housing Trust Fund based on the difference in cost between providing a very low income unit and the region's affordability average. Very-low income units shall be considered low-income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.
 - (4) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - [1] The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - [2] At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - [3] At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - [4] The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 - (5) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- H. Accessibility Requirements:
- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Sub-code, N.J.A.C. 5:23-7 and the standards in § 205-4H(2)[1] through [6].
 - (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - [1] An adaptable toilet and bathing facility on the first floor;
 - [2] An adaptable kitchen on the first floor;
 - [3] An interior accessible route of travel on the first floor;
 - [4] An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor;
 - [5] If not all of the foregoing requirements in §205-4H(2)[1] through §205-4H(2)[4] can be satisfied, then an interior accessible route of travel must be provided between stories within

an individual unit, but if all of the terms of paragraphs §205-4H(2)[1] through §205-4H(2)[4] above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

- [6] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Sub-code, N.J.A.C. 5:23-7, or evidence that the Borough of Red Bank has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:
- (3) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (4) To this end, the builder of restricted units shall deposit funds within the Borough's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
 - (5) The funds deposited under §205-4H(4) above shall be used by the Borough of Red Bank for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (6) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough.
 - (7) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Sub-code, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's affordable housing trust fund where the funds shall be deposited into the affordable housing trust fund and appropriately earmarked.
 - (8) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Sub-code, N.J.A.C. 5:23-7.

I. Maximum Rents and Sales Prices

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - [1] At least thirteen percent (13%) of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30 percent of median income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- (5) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household;
 - [3] A two-bedroom unit shall be affordable to a three-person household;
 - [4] A three-bedroom unit shall be affordable to a four and one-half person household; and
 - [5] A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted development, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household; and

- [3] A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (10) The rent of very low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
- (11) Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program.

SECTION 2. §205 Article II, Growth Share Requirement is hereby amended as follows:

~~Growth Share Requirement~~ Affordable Housing Administration

Delete the following:

- 205-10
- 205-11
- 205-12
- 205-13
- 205-14

Add the following:

§205-5 Affirmative Marketing Requirements

- A. The Borough of Red Bank shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 4 and covers the period of deed restriction.
- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 4.
- D. The Borough has the ultimate responsibility for adopting the affirmative marketing plan and for the proper administration of the affirmative marketing program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Red Bank shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.

- E. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The affirmative marketing plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the affirmative marketing plan, the administrative agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the Borough in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.
- I. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Red Bank, and copies of the applications forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, and the Trenton, Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch Branches of the NAACP, the Red Bank Affordable Housing Corporation, Pilgrim Baptist Church, Shiloh Baptist Church, and the Supportive Housing Association.
- J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.

§205-6 Occupancy Standards

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (1) Provide an occupant for each bedroom;
 - (2) Provide children of different sex with separate bedrooms; and
 - (3) Provide separate bedrooms for parents and children; and
 - (4) Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§205-7 Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Borough of Red Bank elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§205-8 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§205-9 Buyer Income Eligibility

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Borough Mayor and Council, and subject to the court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the administrative agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the administrative agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

§205-10 Limitations on indebtedness secured by ownership unit; subordination

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the administrative agent for a determination in writing that the proposed indebtedness complies with the provisions of this section and the administrative agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

§205-11 Capital Improvements to Ownership Units

- A. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not

be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§205-12 Control Periods for Restricted Rental Units

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Borough of Red Bank elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§205-13 Price Restrictions for Rental Units; Leases

- A. A written lease shall be required for all restricted rental units, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

§205-14 Tenant Income Eligibility

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in _____ the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or

- (5) The household documents reliable proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§205-15 Administration

- A. The position of Municipal Housing Liaison (MHL) for the Borough of Red Bank is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution.
- (1) The MHL must be either a full-time or part-time employee of Red Bank.
 - (2) The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
 - (3) The MHL must meet all the requirements for qualifications, including initial and periodic training.
 - (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Red Bank, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - [1] Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - [2] The implementation of the Affirmative Marketing Plan and affordability controls.
 - [3] When applicable, supervising any contracting Administrative Agent.
 - [4] Monitoring the status of all restricted units in the Borough's Fair Share Plan;
 - [5] Compiling, verifying and submitting annual reports as required;
 - [6] Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - [7] Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).
- B. The Borough of Red Bank shall designate by resolution of the Borough Committee, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with UHAC.
- C. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s). The municipal housing liaison shall supervise the work of the Administrative Agent(s).
- D. The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. ***The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.*** The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
- (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).;
 - (2) Affirmative Marketing;
 - [1] Conducting an outreach process to affirmatively market affordable housing units in accordance with the Borough's affirmative marketing plan and the provisions of N.J.A.C. 5:80-26.15; and
 - [2] Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 - (3) Household Certification;
 - [1] Soliciting, scheduling, conducting and following up on interviews with interested households;
 - [2] Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - [3] Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

- [4] Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - [5] Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - [6] Employing a random selection process as provided in the affirmative marketing plan of the Borough when referring households for certification to affordable units.
 - [7] Notifying the following entities of the availability of affordable housing units in the Borough of Red Bank: Fair Share Housing Center, the new Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.
- (4) Affordability Controls;
- [1] Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - [2] Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - [3] Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Hunterdon County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
 - [4] Communicating with lenders regarding foreclosures; and
 - [5] Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (5) Records retention;
- (6) Resale and re-rental;
- [1] Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
 - [2] Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.
- (7) Processing requests from unit owners;
- [1] Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this chapter;
 - [2] Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
 - [3] Notifying the Borough of an owner's intent to sell a restricted unit; and
 - [4] Making determinations on requests by owners of restricted units for hardship waivers.
- (8) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
- [1] Securing annually from the Borough a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - [2] Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;
 - [3] Posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent or other charges can be made;
 - [4] Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

- [5] Establishing a program for diverting unlawful rent payments to the Borough's affordable housing trust fund; and
 - [6] Creating and publishing a written operating manual for each affordable housing program administered by the administrative agent, to be approved by the Borough Mayor and Council and the court, setting forth procedures for administering the affordability controls.
- (9) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.
- E. The Administrative Agent shall also implement the rehabilitation program, affordability assistance program, and any other affordable housing programs required within the Spending Plan and adopted Housing Plan Element and Fair Share Plan.
- (1) The administrative agent shall prepare monitoring reports for submission to the municipal housing liaison in time to meet any monitoring requirements and deadlines imposed by the court.
 - (2) The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§205-16 Enforcement of Affordable Housing Regulations

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
- (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - [1] A fine of not more than \$10,000.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - [2] In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Red Bank Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - [3] In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
- C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the

municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§205-17 Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed with the Superior Court of New Jersey, Monmouth County.

SECTION 3. §205 Article III, Mandatory Affordable Housing Fees is hereby amended as follows:

Delete the following:

- 205-16

Amend the following:

- 205-15 to 205-18
 - A. This article shall not be effective until approved by ~~COAH~~ the Court pursuant to N.J.A.C. 5:96-5.1
 - B. The Borough shall not spend development fees until ~~COAH~~ the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.
- 205-17 to 205-19
 - A. Imposed fees.
 - (1) Within all district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, ~~provided no increased density is permitted.~~
 - (2) ~~When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However if the zoning on a site has changed during the two year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1 ½% of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two year period preceding the filing of such a variance application.~~
 - B. Eligible exactions, ineligible exactions and exemptions for residential development.

(1) *No change.*

(2) *No change.*

(3) *No change.*

(4) The following types of developments shall be exempt from paying a development fee:

a) ~~One or two family owner occupied dwellings units that are being expanded without creating new dwelling units.~~ Improvements or additions to existing one and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

b) *No change.*

- 205-18 to 205-20
- 205-19 to 205-21
- 205-20 to 205-22

A. *No change.*

B. *No change.*

C. ~~Within seven days from the opening of the trust fund account, the Borough shall provide COAH with written authorization, in the form of a three party escrow agreement between the municipality, the bank, and COAH, to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).~~ In the event of a failure by the Borough of Red Bank to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Red Bank, or, if not practicable, then within the County or the Housing Region. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by ~~COAH~~ the Court.

- 205-21 to 205-23

A. The expenditure of all funds shall conform to a spending plan approved by ~~COAH~~ the Court. Funds deposited in the housing trust fund may be used for any activity approved by ~~COAH~~ the Court to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

B. *No change.*

C. *No change.*

- D. *No change.*
- E. *No change.*
- F. *No change.*
- G. *No change.*

H. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with ~~COAH's~~ the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's and/or the Court's regulations and/or action are not eligible uses of the affordable housing trust fund.

- ~~205-22~~ to ~~205-24~~

The Borough shall complete and return to ~~COAH~~ the Court all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program, as well as to the expenditure of revenues and implementation of the plan certified by ~~COAH~~ the Court. All monitoring reports shall be completed on forms designed by COAH and/or approved by the Court. The Borough of Red Bank shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Red Bank's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

- ~~205-23~~ to ~~205-25~~

The ability for the Borough to impose, collect and expend development fees shall expire with its substantive certification unless the Borough has filed an adopted Housing Element and Fair Share Plan with ~~COAH~~ the Court, has petitioned for substantive certification, and has received ~~COAH's~~ the Court's approval of its development fee ordinance. If the Borough fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L.1985, c.222 (N.J.S.A. 52:27D-320). The Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough retroactively impose a development fee on such a development. The Borough shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

SECTION 4.

A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey statutes.

SECTION 5.

Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 6.

If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 7. Effective Date

This Ordinance shall take effect upon its passage and publication according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019

Public Hearing/Adoption: April 24, 2019

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

ORDINANCE 2019-19

AN ORDINANCE OF THE BOROUGH OF RED BANK TO AMEND THE BOROUGH'S PLANNING AND DEVELOPMENT REGULATIONS CONSISTENT WITH THE TERMS OF A SETTLEMENT AGREEMENT REACHED BETWEEN THE BOROUGH OF RED BANK AND THE FAIR SHARE HOUSING CENTER REGARDING COMPLIANCE WITH THE BOROUGH'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS IN ACCORDANCE WITH IN RE: N.J.A.C. 5:96 AND 5:97, 221 N.J. 1 (2015), THE NEW JERSEY FAIR HOUSING ACT, AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Red Bank that Chapter 490, Planning and Development Regulations, of the Revised General Ordinances is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

SECTION 1. §490-153, Article X, AH-1 Affordable Housing Overlay District One, is hereby deleted:

~~A. Purpose. The purpose of the Affordable Housing Overlay District One is to establish an area for capturing the Borough's unmet need from its prior first and second round fair share affordable housing obligations, in conformance with the requirements of the New Jersey Council on Affordable Housing ("COAH").~~

~~B. Applicability.~~

~~(1) Affordable Housing Overlay District One shall be applied to the areas of residential development identified at Page 18 of the Borough's Housing Element and Fair Share Plan, dated April 10, 1995, which was incorporated in its Master Plan and entitled, "Residential Redevelopment Strategy." These areas are depicted in greater detail in the areas designated as Residential Redevelopment Areas in the map entitled "Proposed Overlay Zone, AH-1, Affordable Housing 1 Overlay Zone," prepared by T&M Associates and dated September 2, 2009, which is hereby incorporated by reference.~~

~~(2) The Official Zoning Map[1] of the Borough of Red Bank is hereby amended in accordance with the foregoing and is further incorporated by reference.~~

~~C. Affordable housing set aside. A twenty percent set aside for affordable housing with a minimum density of six units per acre for all development applications consisting of five or more residential units within the areas described in Subsection B of this section is required.~~

~~D. Compliance with other regulations and ordinances.~~

~~(1) All other development regulations applicable to the underlying zones for each property located within Affordable Housing Overlay District One shall remain in full force and effect unless in conflict with this section.~~

~~(2) All affordable units constructed within this overlay zone shall also comply with Chapter XIA, Low and Moderate Income Housing, of the 1987 Revised General Ordinances of the Borough of Red Bank.~~

§490-153 Reserved.

SECTION 2.

A copy of this Ordinance, upon introduction, shall be provided to all appropriate municipal agencies, including the Planning Board, for their review and comment pursuant to applicable New Jersey statutes.

SECTION 3.

Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION 4.

If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 5. Effective Date

This Ordinance shall take effect upon its passage and publication according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Introduction: April 10, 2019
Public Hearing/Adoption: April 24, 2019

ORDINANCE NO. 2019-20

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 213, ALARM SYSTEMS,
ARTICLE 213-9: FALSE ALARMS TO AMEND PENALTIES**

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter 213 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, Article 213-9 False Alarms is hereby amended and supplemented as follows:

SECTION ONE: Subsection 2013-9A is hereby amended and supplemented as follows (stricken text denotes deletions, underlined text denote additions):

Article 213-9 False Alarms.

A. In the case of a false alarm, any person having knowledge thereof shall immediately notify the Police Department in a manner to be prescribed by rules and regulations promulgated pursuant to § 213-12 of this chapter. In addition, the Chief of Police shall cause an investigation to be made and keep a record of the alarms on file. The following penalties shall apply:

- (1) For the first and second false alarm in any given year, a warning shall be issued;
- (2) For the third false alarm in the same calendar year, a fine of ~~\$15~~ \$100 shall be paid to the Borough; and
- (3) For the fourth false alarm, a fine of ~~\$25~~ \$250.

B. For any subsequent false alarm, a fine of ~~\$50~~ \$500 shall be paid to the Borough. Where the investigation of the Police Department discloses continued abuse of the privilege of connection to the alarm console and the permittee's failure to take remedial steps to avoid such condition, the Chief of Police shall have the right to require disconnection from the alarm console or any dial alarm; provided, however, that no such connection shall be revoked without the permittee having an opportunity to show cause before the Borough Council why such action should not be taken.

C. Any person testing any alarm covered under the terms of this chapter shall notify the police headquarters immediately prior to and after the testing is completed. Failure to do so shall subject the person to penalties provided for false alarms.

D. In cases of false alarms involving fire alarms, all information shall be referred to the Commissioner, who may take such action as may be provided by law.

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

First Reading: April 24, 2019

Public Hearing/Adoption:

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on _____.

Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-107**

**RESOLUTION OPPOSING THE WILLIAMS/NESE RARITAN BAY PIPELINE AND URGING
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION TO CONDUCT A
PUBLIC HEARING ON THE BAYSHORE AND EXTEND THE PUBLIC COMMENT PERIOD**

WHEREAS, Williams is proposing the Northeast Supply Enhancement Project to build a 23.4 mile methane natural gas pipeline through Raritan Bay and Lower New York Bay, from Old Bridge to Rockaway, New York; and

WHEREAS, the purpose of the proposed project is to transport 400 million cubic feet of methane natural gas per day, extracted through the environmentally destructive process of hydraulic fracturing, from the Marcellus Shale to New York markedly contributing to climate change; and

WHEREAS, the project will in no way serve the interests of the State of New Jersey, or its residents, and will only supply methane natural gas to Brooklyn, Queens and Long Island New York; and

WHEREAS, the Williams/NESE pipeline will have severe negative impacts to the Raritan and Lower New York Bays such as disturbing roughly 14,165 acres of the seabed of the Raritan Bay, discharging 690,000 gallons of drilling fluid and chemicals into the Bay, re-suspending over 1,090,000 tons of toxic much contaminated by PCBs, dioxin, lead, mercury, and arsenic, and destroying over 1,000 acres of benthic habitat that houses marine fish, shellfish, and larva; and

WHEREAS, the project poses serious concerns related to environmental harm to marine and coastal ecosystems, as well as negative impacts to the safety, health and wellbeing of Bayshore coastal communities, resulting in well documented public opposition; and

WHEREAS, the Williams/NESE pipeline will endanger marine life and fisheries through decrease water quality from re-suspended toxins, sieving of over 3.5 million gallons of seawater destroying any living thing caught in the process, loud sounds and powerful vibrations that accompany pipeline development which will impact migration patterns, communication systems and other important biological processes; and

WHEREAS, the Williams/NESE pipeline will have significant upstream environmental impacts that will directly harm the Raritan Bay such as negatively affecting 41 acres of wetlands, including approximately 20 acres of forested wetland; and

WHEREAS, the Williams/NESE pipeline will adversely impact industries important to the New Jersey Bayshore communities, disturb commercial and recreational fishing and shellfishing activities, and potentially damage the tourism industry; and

WHEREAS, despite being directly affected from the proposed Williams/NESE pipeline, there has been no public hearing within the Bayshore; and

WHEREAS, the Williams/NESE pipeline will increase dependency on fossil fuels, reverses the State's renewable energy agenda, and contributes to climate change through increased emissions of methane and carbon dioxide; and

WHEREAS, the company Williams and associate Transcontinental Gas Pipeline Company (Transco) demonstrate a history of mismanaged facilities that resulted in explosions and fires, and do not show results of the pipeline test to governing bodies in any municipalities through which the existing pipeline runs.

NOW, THEREFORE, BE IT RESOLVED the Council of the Borough of Red Bank, County of Monmouth, State of New Jersey, hereby opposes the construction and installation of a 23.4 mile methane natural gas pipeline through Raritan Bay from Old Bridge to Rockaway, New York. Construction of the pipeline will negatively impact the health of the Bayshore, coastal ecosystems, marine life, benthic habitats, and coastal communities.

BE IT FURTHER RESOLVED that the Borough of Red Bank urges the company Williams to eliminate any further consideration for a pipeline.

BE IT FURTHER RESOLVED that the Borough of Red Bank urges the New Jersey Department of Environmental Protection to deny any permit application for the project and any other pipeline, and urges its representatives of the New Jersey Legislature, United States Congress and United States Senate as well as the Governor of New Jersey to oppose this pipeline application.

BE IT FURTHER RESOLVED that the Borough of Red Bank hereby calls on the New Jersey Department of Environmental Protection to extend the public comment period 45 days and within the extension conduct a public hearing on the Williams/NESE pipeline in the Bayshore region.

BE IT FURTHER RESOLVED that good governance depends on transparency and due process and thus, the Bayshore must have an opportunity to be heard.

BE IT FURTHER RESOLVED that a true certified copy of this Resolution shall be forwarded to the New Jersey Governor Philip D. Murphy; Matthew Resnick of the New Jersey Department of Environmental Protection Division of Land Use Regulation; and Senator Vin Gopal, as well as Assemblywoman Joanne Downey and Assemblyman Eric Houghtaling.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on April 24, 2019.

Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-108**

**A RESOLUTION REGARDING SPECIAL DUTY ASSIGNMENTS FOR
POLICE OFFICERS OF THE BOROUGH OF RED BANK**

WHEREAS, the Borough of Red Bank by Ordinance and directives regulates special duty assignments for Red Bank Police Officers; and

WHEREAS, from time to time the Governing Body adopts resolutions establishing fees and rates for such special duty assignments; and

WHEREAS, the Chief of Police has recommended modifications to the current fees and rates of compensation for such special off-duty hours police work and the Governing Body is agreeable to these recommendations.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Red Bank that it does hereby establish the following rates and fees regarding special duty assignments for police officers of the Borough of Red Bank:

- | | | |
|----|---|-------------------------------------|
| A. | Financial Institution or similar security work | \$85 /hour 4 hour minimum |
| B. | Civil Subpoena | \$85 /hour 4 hour minimum |
| C. | Construction/Traffic work and all other work except school work | \$85 /hour 4 hour minimum |

BE IT FURTHER RESOLVED that the above mentioned rates and fees are allocated **\$70.00** per hour to the police officer and a \$15.00 surcharge for administrative and related costs to be retained by the Borough.

BE IT FURTHER RESOLVED that the rate or fee regarding special duty assignments for police officers for school work shall be \$50.00 per hour, with a four hour minimum, which will be allocated totally to the police officer with no administrative or related cost allocation.

BE IT FURTHER RESOLVED that the provisions of this resolution shall take effect on May 9, 2019.

BE IT FURTHER RESOLVED that the rates and authority given by this resolution may be amended or revoked from time to time by the Governing Body.

BE IT FURTHER RESOLVED that any Borough officials required to take any action to implement this resolution be and the same are hereby authorized to do so.

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this resolution to the Chief of Police and to the Chief Financial Officer.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

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Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-109**

**A RESOLUTION EXPRESSING SUPPORT FOR LEGISLATION INCREASING STATE
FUNDING TO THE "SHORE PROTECTION FUND" FROM \$25 MILLION TO \$50 MILLION
(S-1614/A-826)**

WHEREAS, the State of New Jersey maintains the Shore Protection Fund, which was established in 1992; and

WHEREAS, the Shore Protection Fund provides important funding that allows the State and municipalities to engage in cost-share partnerships with the U.S. Army Corps of Engineers on shore protection projects including beach restoration and maintenance; and

WHEREAS, the Shore Protection Fund is funded by State realty transfer fee revenue, and is currently capped at \$25 million, an amount that was last adjusted in 1999; and

WHEREAS, following the devastating effects of Superstorm Sandy, it has become evident that the current funding to the Shore Protection Fund is inadequate for allowing the State and municipalities to fund necessary projects; and

WHEREAS, pending before the Legislature are bills S-1614 and A-826, which would increase the cap on funding to the Shore Protection Fund to \$50 million; and

WHEREAS, the Mayor and Council of the Borough of Red Bank believe this proposed increase to the Shore Protection Fund is essential to protecting the shoreline of the Township of Middletown and that of every other shore community comprising the Jersey Shore.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank in the County of Monmouth, State of New Jersey, that they hereby expresses their support for an increase in funding to the Shore Protection Fund from \$25 million to \$50 million, as provided in the bills pending before the Legislature as S-1614 and A-826.

BE IT FURTHER RESOLVED that a certified copy of this resolution be transmitted to Governor Phil Murphy, Senate President Steve Sweeney, Assembly Speaker Craig Coughlin, Senator Vin Gopal, Assemblywoman Joanne Downey, and Assemblyman Eric Houghtaling.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on April 24, 2019.

Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-111**

A RESOLUTION AUTHORIZING APPROVAL OF SIDEWALK CAFÉS

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank that they hereby authorize and approve the application for sidewalk cafés for the following:

1. Danny's, 11 Bridge Avenue
2. Patrizia's, 28 Broad Street

BE IT FURTHER RESOLVED that the Borough Clerk is authorized to issue licenses to the above named establishments for the 2019/2020 season which runs from April 1, 2019 to March 31, 2020.

BE IT FURTHER RESOLVED that these permits are subject to change at the discretion of the Fire Marshal if conditions arise that affect outdoor café arrangements.

BE IT FURTHER RESOLVED that the outdoor café arrangements may not be changed from the plan approved by the Fire Marshal and placed on file. **Changes made by the applicant without approval will result in immediate suspension of the permit.**

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-112**

**A RESOLUTION ACCEPTING THE PERFORMANCE GUARANTEE POSTED BY
DENHOLTZ ASSOCIATES FOR THE DEVELOPMENT PROJECT LOCATED AT
BLOCK 63, LOTS 1.01, 3, 4, 8, 9, 10, & 10.01 AND BLOCK 75.05, LOT 16.01**

WHEREAS, pursuant to the Planning and Development Regulations of the Borough of Red Bank (the "Borough"), Denholtz Associates is required to post \$99,862.20 in the form of an acceptable bond or letter of credit, together with a cash deposit of \$11,095.80, for a total performance guarantee in the amount of \$110,958.00 in connection with a development project located upon the properties known as Block 63, Lots 1.01, 3, 4, 8, 9, 10, & 10.01 and Block 75.05, Lot 16.01, which guarantee must be posted before starting construction of the improvements; and

WHEREAS, the Governing Body of the Borough has been advised by the Planning and Zoning Department that a performance bond in the amount of \$99,862.20 has been issued by Nationwide Mutual Insurance Company, 7 World Trade Center, 37th Floor, 250 Greenwich Street, New York, NY 10007 for Block 63, Lots 1.01, 3, 4, 8, 9, 10, & 10.01 and Block 75.05, Lot 16.01; and

WHEREAS, the Governing Body has been advised by the Borough Planning and Zoning Department that Denholtz Associates posted a cash deposit in the amount of \$11,095.80; and

WHEREAS, the acceptance of this performance guarantee is permitted and in accordance with the provisions of the New Jersey Municipal Land Use Law and the Borough's Planning and Development Regulations:

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey as follows:

1. That the Governing Body does hereby accept the performance bond in the amount of \$99,862.20 issued by Nationwide Mutual Insurance Company, 7 World Trade Center, 37th Floor, 250 Greenwich Street, New York, NY 10007 and the cash deposit in the amount of \$11,095.80 from Denholtz Associates for Block 63, Lots 1.01, 3, 4, 8, 9, 10, & 10.01 and Block 75.05, Lot 16.01; and
2. That a certified copy of this resolution be forwarded to the Chief Financial Officer, the Borough Planning and Zoning Department, and Denholtz Associates.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on April 24, 2019.

Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-113**

**A RESOLUTION ACCEPTING BIDS AND AWARDING A CONTRACT
FOR THE WHITE STREET/ENGLISH PLAZA STREETScape IMPROVEMENT PROJECT**

WHEREAS, on April 11, 2019, bids were received for the Borough's planned White Street/English Plaza Streetscape Improvement Project, as follows:

| <u>Contractor</u> | <u>Location</u> | <u>Base Bid A+B+C</u> | <u>Base Bid (A+B+C) & Alt. No. 1</u> |
|--------------------------------|--------------------|---------------------------|--|
| 1) Seacoast Construction, Inc. | East Brunswick, NJ | \$1,486,401.28 | \$1,533,876.28 |
| 2) Precise Construction, Inc. | Freehold, NJ | \$1,643,690.01 | \$1,710,280.01 |
| 3) Fiore Paving Co., Inc. | Oceanport, NJ | \$1,752,120.01 | \$1,850,370.01 |
| 4) Berto Construction | Rahway, NJ | \$1,969,647.51 | \$2,044,037.51 |

WHEREAS, the Borough Engineer has reviewed the bids received from the aforementioned contractors; and

WHEREAS, the Borough Engineer has recommended award of the contract to the lowest responsible bidder, Seacoast Construction, Inc. of East Brunswick, NJ, in the amount of \$1,533,876.28 for Base Bid A, Base Bid B, Base Bid C, and Bid Alternate No. 1, all inclusive, as available funding permits;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank that the above-described bid received from Seacoast Construction, Inc. of East Brunswick, NJ for the Borough's planned White Street/English Plaza Streetscape Improvement Project is hereby accepted; and

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to sign and deliver applicable contract(s) on behalf of the Borough, subject to review by the Borough Attorney; and

BE IT FURTHER RESOLVED that the bid and bid security of the second lowest bidder, Precise Construction, Inc., shall be retained and held open, pending execution of the awarded contract by Seacoast Construction, Inc.

BE IT FURTHER RESOLVED that the Borough Clerk forward a certified true copy of this resolution to the Borough Administrator, Borough CFO, Borough Engineer, Seacoast Construction, Inc., and to the unsuccessful bidders.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on _____.

Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-114**

RESOLUTION ACCEPTING THE RETIREMENT OF ROSA BROWN

WHEREAS, the Borough of Red Bank (Borough) hired Rosa Brown in April of 2008; and

WHEREAS, Ms. Brown will have successfully completed eleven years of continuous service with the Borough of Red Bank; and

WHEREAS, Ms. Brown has announced her retirement as an employee of the Borough and the Borough has received notice from the New Jersey Division of Pensions and Benefits that she has applied for retirement effective September 16, 2019; and

WHEREAS, In accordance with Chapter 105-25 of the Revised General Ordinances of the Borough of Red Bank and the Collective Bargaining Agreement between the Borough of Red Bank and the CWA Local 1075, she will not qualify for medical coverage to a retiring employee with less than 25 years of service.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank that they do hereby accept the retirement of Rosa Brown, effective September 16, 2019, with no provision for medical or dental insurance coverage in accordance with the Borough Ordinances and the Collective Bargaining Agreement between the Borough of Red Bank and the CWA Local 1075.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

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Pamela Borghi, Municipal Clerk

BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-115

A RESOLUTION APPOINTING SPECIAL LAW ENFORCEMENT OFFICER CLASS II

WHEREAS, the Governing Body of the Borough of Red Bank is in agreement with the recommendation of the Chief of Police to appoint a Special Law Enforcement Officer Class II to the Police Department.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Red Bank that James K. Courtney is hereby appointed to the position of Special Law Enforcement Officer Class II to the Borough of Red Bank Police Department effective May 1, 2019 at a rate of pay of \$15.00 per hour.

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this resolution to James K. Courtney, the Chief of Police and the Personnel Office.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

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Pamela Borghi, Municipal Clerk

BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-116

A RESOLUTION APPOINTING SPECIAL LAW ENFORCEMENT OFFICER CLASS II

WHEREAS, the Governing Body of the Borough of Red Bank is in agreement with the recommendation of the Chief of Police to appoint a Special Law Enforcement Officer Class II to the Police Department.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Red Bank that Andrew J. Todd is hereby appointed to the position of Special Law Enforcement Officer Class II to the Borough of Red Bank Police Department effective May 1, 2019 at a rate of pay of \$15.00 per hour.

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this resolution to Andrew J. Todd, the Chief of Police and the Personnel Office.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

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Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-117**

**A RESOLUTION RATIFYING AND CONFIRMING THE APPOINTMENT OF A FULL-TIME
POLICE OFFICER**

WHEREAS, the Borough of Red Bank desires to fill a vacancy in the complement of Police Officers as established in Chapter 118, Article I, Section 118-7 of the Code of the Borough of Red Bank; and

WHEREAS, the Chief of Police has recommended that it would be in the best interests of the Borough to appoint Piero Vescio as a Police Officer.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Red Bank that Piero Vescio is hereby appointed as a full-time Police Officer, effective May 1, 2019, with the rank of Patrolman 8, at an annual salary of \$56,659, pending satisfactory completion of a criminal background investigation and subject to satisfactory completion of a probationary period of one (1) year.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

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Pamela Borghi, Municipal Clerk

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 19-118

A RESOLUTION RATIFYING AND CONFIRMING THE APPOINTMENT OF A PART-TIME PARKING ENFORCEMENT OFFICER

WHEREAS, the Director of Public of Public Utilities and the Parking Utility Supervisor have recommended that it would be in the best interests of the Borough to appoint a part-time Parking Enforcement Officer; and

WHEREAS, pursuant to Chapter 90, Article VI, Section 90-28 of the Revised General Code of the Borough of Red Bank, the Business Administrator appoints Erik Perry as a part-time Parking Enforcement Officer.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Red Bank that they do hereby ratify and confirm the Business Administrator's appointment of Erik J. Perry as part-time Parking Enforcement Officer effective May 1, 2019 at a rate of pay of \$16.00 per hour not to exceed 20 hours per week, pending successful completion of a criminal background investigation and drug screen and subject to satisfactory completion of a probationary period of 90 days

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

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Pamela Borghi, Municipal Clerk

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 19-119**

**RESOLUTION EXTENDING THE BOROUGH'S PROFESSIONAL SERVICES CONTRACT
WITH SUPLEE, CLOONEY & COMPANY FOR FINANCIAL ACCOUNTING SERVICES
FROM MAY 1, 2019 TO JUNE 1, 2019**

WHEREAS, the Borough of Red Bank (the "Borough") requires financial accounting services; and

WHEREAS, pursuant to N.J.S.A. 40A:11-1 *et seq.*, the Borough retained the firm of Suplee, Clooney & Company to perform financial accounting services for the Borough under the terms of a non-fair and open contract by Resolution 19-14 dated January 1, 2019 extending said contract by Resolution 19-55 through May 1, 2019 ; and

WHEREAS, the terms of the Borough's contract shall include that Suplee, Clooney & Company will be compensated for said services at a rate of \$125.00 per hour; and

WHEREAS, the term of the Borough's contract with Suplee, Clooney & Company was through May 1, 2019 and the Borough wishes to extend that contract through June 1, 2019; and

WHEREAS, Suplee, Clooney & Company shall be required to complete and submit a Business Entity Disclosure Certification which certifies that Suplee, Clooney & Company has not made any reportable contributions to a political or candidate committee in the Borough of Red Bank in the previous one year, and that the contract will prohibit Suplee, Clooney & Company from making any reportable contributions during the term of the contract; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40 A: 11-5(1)(a)(i), requires the public advertisement of notice with respect to contracts for professional services awarded without competitive bids;

NOW THEREFORE, BE IT RESOLVED, that the Mayor & Council of the Borough of Red Bank hereby authorizes the Mayor and Borough Clerk to extend the contract with Suplee, Clooney & Company in accordance with the foregoing parameters and the following terms:

1. The Mayor and Borough Clerk, on behalf of the Borough, are hereby authorized and directed to execute an extended contract with Suplee, Clooney & Company for financial accounting services at an hourly rate of \$125.00 with a term extended to June 1, 2019.
2. The contract is awarded without competitive bidding as a professional service under the provisions of N.J.S.A. 40A: 11-5(1)(a)(i).
3. That a notice in accordance with this Resolution and the New Jersey Local Public Contracts Law shall be published at least one time in the Borough's official newspaper.
4. That a certified copy of this Resolution shall be provided to the Mayor, Borough Administrator, and Suplee, Clooney & Company.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: April 24, 2019

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Pamela Borghi, Municipal Clerk